

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

NOV 17 2003

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

Mr. Craig Evezich  
Evezich Law Offices, P.L.L.C.  
600 University Street  
Suite 2701  
Seattle, WA 98101  
Tel: (206) 576-6900

Attorneys for Plaintiff

UNITED STATE DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

**CS-03-0426-JLQ**

STATE FARM FIRE AND CASUALTY  
COMPANY, as subrogee for Stephen and  
Lane Klees,

Plaintiff,

vs.

OXARC, INC, a Washington corporation, and  
THE CITY OF SPOKANE, a municipality,

Defendants.

NO.

COMPLAINT

The plaintiff, by and through its attorney of record, Craig Evezich of Evezich Law  
Offices, P.L.L.C., pleads as follows:

**I. PARTIES, VENUE, AND JURISDICTION**

1.1 State Farm Fire and Casualty Company ("State Farm") is a corporation  
incorporated under the laws of, and principally conducting business in, Illinois.

1.2 Stephen and Lane Klees ("Klees") were insured by State Farm, and resided  
in Spokane County at all times relevant to this lawsuit.

Complaint  
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Evezich Law Offices, P.L.L.C.  
600 University Street, Suite 2701  
Seattle, WA 98101  
Phone (206) 576-6900/Fax (206) 624-8241

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ORIGINAL

1 1.3 Oxarc, Inc. ("Oxarc") is a corporation under the laws of the State of  
2 Washington and conducts business in Washington State.

3 1.4 The City of Spokane ("Spokane") is a municipality under the laws of the  
4 State of Washington and conducts business in Washington State.

5 1.5 This court has jurisdiction over the subject matter of this lawsuit pursuant to  
6 28 U.S.C. §1332.

7 1.6 Venue is correct in this court because Spokane and Oxarc conduct business  
8 in this court's judicial district.

9 1.7 The amount in controversy exceeds \$75,000.00

## 10 **II. FACTS**

11 2.1 At all relevant times herein, Klees owned an apartment complex known as  
12 "Culmstock Arms Apartments" ("Culmstock Arms") in Spokane, Washington.

13 2.2 On September 20, 2000, Oxarc performed a fire extinguishing system test at  
14 the Culmstock Arms.

15 2.3 After the test, Oxarc failed to ensure that a valve on one of the standpipes  
16 was closed.

17 2.4 On October 24, 2001, a fire occurred at the Culmstock Arms.

18 2.5 Spokane responded to the fire.

19 2.6 During the fighting of the fire, Spokane charged one of the Culmstock Arm's  
20 standpipes that Oxarc had failed to close after testing.

21 2.7 Spokane's Standard Operating Procedures ("SOP") call for the fire  
22 department to ensure that the standpipe's valve's are closed prior to, or immediately after,  
23 the standpipe is charged.

24 2.8 Spokane failed to ensure that the standpipe's valve was closed before, and  
25 perhaps as long as 45 minutes after, the standpipe was charged.

26 2.9 As a result of Oxarc not closing the valve, and Spokane failing to ensure it  
was closed prior to, or immediately after, charging the standpipe, the Culmstock Arms

1 suffered water damage.

2 2.10 Such damage was distinct from that caused by the fire.

3 2.11 As a result of the water damage, Culmstock Arms incurred damages.

4 2.12 Such damages include, but are not limited to the replacement value of the  
5 damage to the apartments and their contents, lost rents, code upgrades, and other  
6 damages in an amount to be proven at trial.

7 2.13 At the time of the fire, Klees was insured by State Farm.

8 2.14 As a result of its insurance contract with Klees, State Farm paid for some of  
9 Klees' damages.

10 2.15 As a result of paying Klees for some of the damages, State Farm holds a  
11 subrogated interest in recovery of the money it expended.

12 2.16 State Farm has properly and timely filed a Notice of Claim with the City of  
13 Spokane and has allowed at least sixty days to elapse after the filing of such notice prior  
14 to filing this lawsuit.

15 **III. CAUSE OF ACTION AGAINST OXARC: NEGLIGENCE**

16 3.1 Oxarc had a duty, under common law and statute, to properly test and close  
17 the standpipe.

18 3.2 Oxarc failed to properly close the standpipe.

19 3.3 As a result of Oxarc failing to close the standpipe, State Farm suffered  
20 damage in an amount to be proven at trial.

21 **IV. CAUSE OF ACTION AGAINST SPOKANE: NEGLIGENCE**

22 4.1 Spokane had a duty under common law, and its own SOP's to ensure that  
23 the valve on the standpipe was closed prior to, or immediately after charging the  
24 standpipe.

25 4.2 Under Washington State Law, Spokane had a duty to follow its own SOP's.

26 4.3 Under Washington State Law and common law, Spokane had a duty to fight  
the fire in a manner which did not cause additional property damage to the Culmstock

Arms.

4.4 By failing to follow its SOP's, and by violating common law and statutory requirements, Spokane proximately caused damage to the Culmstock Arms.

4.5 As a result of Spokane's actions, State Farm suffered damage in an amount to be proven at trial.

**V. RELIEF REQUESTED**

5.1 For a judgment against the defendants, jointly and severally, for the damages incurred by State Farm as a result of the damages to the Culmstock Arms.

5.2 For prejudgment interest on all liquidated sums.

5.3 For the reasonable and statutory costs and attorney's fees incurred by the plaintiffs in bringing this action.

5.4 For an order conforming the pleadings to the evidence presented.

5.5 For any other relief the court deems just.

DATED: November 12, 2003

Evezich Law Offices, P.L.L.C.

By: 

Craig Evezich, WSBA #20957  
Attorneys for Plaintiffs